

Name of Case (Region): Chemsico, a Division of United Industries Corporation
Lowe's Home Centers, LLC
Region 10

Overview of the Case/Action (1-2 sentences)
Issuance of two stop sale, use, and removal orders under Section 13(a) of FIFRA to prevent the further distribution and sale of the unregistered pesticide product "Black Flag Disposable Fly Trap." Chemsico is the manufacturer and Lowe's is the retailer.
Action Needed/Next Steps and Date
Ultimate action is issuance of the orders by delegated official in Region 10. Prior to signature, the orders need to be routed through management for approval. Chemsico is headquartered in Missouri (Region 7) and Lowe's is headquartered in North Carolina (Region 4). This action will prohibit the distribution and sale of the pesticide product nation-wide. Given the location of the companies and the scope of the action, Region 10 will need to consult with Regions 4 and 7 prior to issuing the orders (See Delegation 5-12). EPA Region 10 projects being able to issue these Orders by April 28, 2017.
Background and Summary of Case, Health and Env'tl Impacts
The Black Flag Disposable Fly Trap consists of a plastic bag that the user fills with water and an attractant that is added to the water and sends off an odor. Flies are attracted to the odor, get caught in the trap, and drown in the water.
<div>Ex. 5 - Deliberative Process & Ex. 4 CBI</div>
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Summary of Injunctive Relief (including cost of injunctive relief, and mitigation if applicable) And Penalty Amount (including economic benefit)
None
Supplemental Environmental Project (if applicable)
None
Significant or Precedential Issues (if applicable)/ Anticipated Arguments and Defenses
In 2013, the Office of Pesticides Programs (OPP) met with representatives from United Industries Corporation to discuss the Fly Trap product and registration requirements. During this meeting, the company argued that the product did not need to be registered because the product qualifies for exemptions under the FIFRA regulations.
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State Position, and other Interested Parties/Stakeholders
EPA's investigation of the Black Flag product began with a tip and complaint by Sterling International, a competitor of United Industries Corporation. Sterling manufactures a similar fly trap using Indole as an attractant. In 2008, OPP requested that Sterling register its fly trap as a pesticide. Sterling did so, but noticed that United Industries Corporation continued to market and sell the Black Flag product as an unregistered product.
Other Issues for Consideration
The Order is supported by a September 27, 2016, Region 10 inspection of a Lowe's Home Center in Seattle where the Fly Trap products were found on the shelves and purchased. Region 10 also, on September 15, 2016, purchased eight Fly Traps from the Lowe's Home Centers' webpage. Region 10 had the products analyzed to confirm the presence of Indole and 2-piperidinone.